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FILED
MAY 29 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

ADR

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 RACHEL CARDENAS,
13 Plaintiff,

14 vs.

15 DIVERSIFIED COLLECTION
16 SERVICES, INC.; and DOES 1 to 10,
17 inclusive,

18 Defendants.

Civil Case No.:

C12-02719^{JCS}
COMPLAINT AND DEMAND FOR
JURY TRIAL

(Unlawful Debt Collection Practices)

Demand Does Not Exceed \$10,000

19 **COMPLAINT AND DEMAND FOR JURY TRIAL**

20 **INTRODUCTION**

21
22 1. This is an action for actual and statutory damages brought by Plaintiff, Rachel
23 Cardenas, an individual consumer, against Defendant, Diversified Collection
24 Services, Inc., for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §
25 1692 *et seq.* (hereinafter "FDCPA"), which prohibits debt collectors from
26 engaging in abusive, deceptive, and unfair practices.
27
28

JURISDICTION

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d), Cal. Civ. Code §§ 1788.30, and 28 U.S.C. § 1331 and § 1337. Venue in this District is proper in that the Defendant transacts business here and the conduct complained of occurred here.

PARTIES

3. Plaintiff, Rachel Cardenas, is a natural person with a permanent residence in San Antonio, Bexar County, Texas 78221.

4. Upon information and belief the Defendant, Diversified Collection Services, Inc., is a corporation engaged in the business of collecting debt in this state and in several other states, with its principal place of business located at 333 North Canyons Parkway, Suite 100, Livermore, Alameda County, California 94551. The principal purpose of Defendant is the collection of debts in this state and several other states, and Defendant regularly attempts to collect debts alleged to be due another.

5. Defendant is engaged in the collection of debts from consumers using the mail and telephone. Defendant regularly attempts to collect consumer debts alleged to be due to another. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

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2 6. The debt Defendant is attempting to collect on is an alleged obligation of a
3 consumer to pay money arising out of a transaction in which the money, property,
4 insurance or services which are the subject of the transaction are primarily for
5 personal, family, or household purposes, whether or not such obligation has been
6 reduced to judgment.
7

8
9 7. Upon information and belief, Plaintiff and Defendant entered into an agreement
10 whereby Plaintiff would pay six hundred, and forty dollars (\$640.00) per month
11 towards the alleged debt. In return Defendant would not take any further action.
12

13 8. Within one (1) year preceding the date of this Complaint and after the above
14 agreement was reached, Defendant, in connection with the collection of the alleged
15 debt, demanded a payment from Plaintiff in the amount of one thousand dollars
16 (\$1,000.00) which is more than a fifty six percent (56%) increase in the amount
17 agreed to by the parties.
18

19
20 9. The natural consequences of Defendant's statements and actions was to unjustly
21 condemn and vilify Plaintiff for his non-payment of the debt he allegedly owed.
22

23 10. The natural consequences of Defendant's statements and actions was to
24 produce an unpleasant and/or hostile situation between Defendant and Plaintiff.
25
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11. The natural consequences of Defendant's statements and actions was to cause Plaintiff mental distress.

12. Defendant utilized unfair and unconscionable means to collect on Plaintiff's alleged debt, by first agreeing to one set of payments and then demand an amount that was more than a 50% increase.

FIRST CLAIM FOR RELIEF

13. Plaintiff repeats and realleges and incorporates by reference to the foregoing paragraphs.

14. Defendants violated the FDCPA. Defendants' violations include, but are not limited to, the following:

(a) Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequences of which is to harass, oppress, or abuse any person in connection with the collection of an alleged debt; and

(b) Defendant violated §1692d(2) of the FDCPA by using obscene or profane language or language the natural consequences of which is to abuse the hear or reader in connection with the collection of an alleged debt; and

1 (c) Defendant violated §1692e of the FDCPA by using a false,
2 deceptive, or misleading representation or means in connection
3 with the collection of the alleged debt; and
4

5 (d) Defendant violated §1692e(10) of the FDCPA by using false
6 representation or deceptive means in connection with the collection
7 the alleged debt; and
8

9 (e) Defendant violated §1692f of the FDCPA by using unfair or
10 unconscionable means in connection with the collection of an
11 alleged debt.
12

13 15. Defendant's acts as described above were done intentionally with the purpose
14 of coercing Plaintiff to pay the alleged debt.
15

16 16. As a result of the foregoing violations of the FDCPA, Defendant is liable to
17 the Plaintiff, Rachel Cardenas, for declaratory judgment that Defendant's conduct
18 violated the FDCPA, actual damages, statutory damages, and costs and attorney
19 fees.
20

21
22 **SECOND CLAIM FOR RELIEF**

23 17. Plaintiff repeats and realleges and incorporates by reference the foregoing
24 paragraphs.
25

26 18. Defendant violated the RFDCPA. Defendant's violations include, but are not
27 limited to the following:
28

1 (a) Defendant violated §1788.11(d) of the RFDCPA by causing a
2 telephone to ring repeatedly or continuously to annoy the person
3 called; and

4 (b) Defendant violated §1788.17 of the RFDCPA by being a debt
5 collector collecting or attempting to collect a consumer debt that is not
6 compliant with the provisions of Sections 1692b to 1692j of the
7 FDCPA, the references to federal codes in this section referring to
8 those codes as they read as of January 1, 2001.
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11
12 19. Defendant's acts as described above were done intentionally with the purpose
13 of coercing Plaintiff to pay the alleged debt.

14
15 20. As a result of the foregoing violations of the RFDCPA, Defendant is liable to
16 the plaintiff Rachel Cardenas for actual damages, statutory damages, and costs and
17 attorney fees.
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20 WHEREFORE, Plaintiff Rachel Cardenas respectfully requests that judgment be
21 entered against defendant Diversified Collection Services, Inc. for the following:
22

23 A. Actual damages.

24 B. Statutory damages pursuant to 15 U.S.C. § 1692k.

25 C. Statutory damages pursuant to Cal. Civ. Code § 1788.30.
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1 D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k and
2 Cal. Civ. Code § 1788.30.

3 E. For such other and further relief as the Court may deem just and proper.
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5 **DEMAND FOR JURY TRIAL**

6 Please take notice that plaintiff Rachel Cardenas demands trial by jury in
7 this action.
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10 **RESPECTFULLY SUBMITTED,
PRICE LAW GROUP APC**

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13 DATED: May 21, 2012

14 By: 

15 G. Thomas Martin, III
16 Attorney for Plaintiff
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